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Attorneys for Defendant
OPENTABLE, INC.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

AMERANTH, INC.,

Plaintiff,

v.

PIZZA HUT, INC., et al.,
Defendants.

CASE NO. 3:11-CV-1810-JLS (NLS)

**DEFENDANT OPENTABLE, INC.'S
FIRST AMENDED ANSWER TO
SECOND AMENDED COMPLAINT AND
COUNTERCLAIMS**

1 Defendant OpenTable, Inc. ("OpenTable") answers the Second Amended Complaint for
2 Patent Infringement filed by plaintiff Ameranth, Inc. ("Ameranth") and asserts counterclaims as
3 follows:

4 **PARTIES**

5 1. OpenTable is without knowledge or information sufficient to form a belief as to
6 the truth of the allegations contained in Paragraph 1 and on that basis denies such allegations.

7 2. OpenTable is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations contained in Paragraph 2 and on that basis denies such allegations.

9 3. OpenTable is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations contained in Paragraph 3 and on that basis denies such allegations.

11 4. OpenTable is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations contained in Paragraph 4 and on that basis denies such allegations.

13 5. OpenTable admits that it is a Delaware corporation having a principal place of
14 business in San Francisco, California, and that it offers for sale or license products and services
15 in this judicial district. Except as expressly admitted, OpenTable denies the allegations of
16 Paragraph 5.

17 6. OpenTable is without knowledge or information sufficient to form a belief as to
18 the truth of the allegations contained in Paragraph 6 and on that basis denies such allegations.

19 7. OpenTable is without knowledge or information sufficient to form a belief as to
20 the truth of the allegations contained in Paragraph 7 and on that basis denies such allegations.

21 8. OpenTable is without knowledge or information sufficient to form a belief as to
22 the truth of the allegations contained in Paragraph 8 and on that basis denies such allegations.

23 9. OpenTable is without knowledge or information sufficient to form a belief as to
24 the truth of the allegations contained in Paragraph 9 and on that basis denies such allegations.

25 10. OpenTable is without knowledge or information sufficient to form a belief as to
26 the truth of the allegations contained in Paragraph 10 and on that basis denies such allegations.

27 11. OpenTable is without knowledge or information sufficient to form a belief as to
28 the truth of the allegations contained in Paragraph 11 and on that basis denies such allegations.

JURISDICTION AND VENUE

12. OpenTable admits that the Second Amended Complaint for Patent Infringement purports to state an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 271, 281-285. Except as expressly admitted, OpenTable denies the allegations of Paragraph 12.

13. OpenTable admits the allegations of Paragraph 13.

14. OpenTable admits that it has offered for sale or license its products and services in this judicial district. Except as expressly admitted, OpenTable is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 and on that basis denies such allegations.

15. OpenTable admits that the Court has personal jurisdiction over it. Except as expressly admitted, OpenTable denies the allegations of Paragraph 15.

16. OpenTable admits that venue in this judicial district is proper as to OpenTable. Except as expressly admitted, OpenTable is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 and on that basis denies such allegations.

BACKGROUND

17. OpenTable is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 and on that basis denies such allegations.

18. OpenTable is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 and on that basis denies such allegations.

19. OpenTable is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 and on that basis denies such allegations.

20. OpenTable is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 and on that basis denies such allegations.

COUNT I

21. No response is required.

22. OpenTable is without knowledge or information sufficient to form a belief as to

1 the truth of the allegations contained in Paragraph 22 and on that basis denies such allegations.

2 23. OpenTable is without knowledge or information sufficient to form a belief as to
3 the truth of the allegations contained in Paragraph 23 and on that basis denies such allegations.

4 24. OpenTable is without knowledge or information sufficient to form a belief as to
5 the truth of the allegations contained in Paragraph 24 and on that basis denies such allegations.

6 25. OpenTable is without knowledge or information sufficient to form a belief as to
7 the truth of the allegations contained in Paragraph 25 and on that basis denies such allegations.

8 26. OpenTable is without knowledge or information sufficient to form a belief as to
9 the truth of the allegations contained in Paragraph 26 and on that basis denies such allegations.

10 27. OpenTable is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in Paragraph 27 and on that basis denies such allegations.

12 28. OpenTable is without knowledge or information sufficient to form a belief as to
13 the truth of the allegations contained in Paragraph 28 and on that basis denies such allegations.

14 29. OpenTable is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations contained in Paragraph 29 and on that basis denies such allegations.

16 30. OpenTable is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations contained in Paragraph 30 and on that basis denies such allegations.

18 31. OpenTable is without knowledge or information sufficient to form a belief as to
19 the truth of the allegations contained in Paragraph 31 and on that basis denies such allegations.

20 32. OpenTable is without knowledge or information sufficient to form a belief as to
21 the truth of the allegations contained in Paragraph 32 and on that basis denies such allegations.

22 33. OpenTable is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations contained in Paragraph 33 and on that basis denies such allegations.

24 34. OpenTable is without knowledge or information sufficient to form a belief as to
25 the truth of the allegations contained in Paragraph 34 and on that basis denies such allegations.

26 35. OpenTable is without knowledge or information sufficient to form a belief as to
27 the truth of the allegations contained in Paragraph 35 and on that basis denies such allegations.

28 36. OpenTable is without knowledge or information sufficient to form a belief as to

1 the truth of the allegations contained in Paragraph 36 and on that basis denies such allegations.

2 37. OpenTable is without knowledge or information sufficient to form a belief as to
3 the truth of the allegations contained in Paragraph 37 and on that basis denies such allegations.

4 38. OpenTable is without knowledge or information sufficient to form a belief as to
5 the truth of the allegations contained in Paragraph 38 and on that basis denies such allegations.

6 39. OpenTable is without knowledge or information sufficient to form a belief as to
7 the truth of the allegations contained in Paragraph 39 and on that basis denies such allegations.

8 40. OpenTable is without knowledge or information sufficient to form a belief as to
9 the truth of the allegations contained in Paragraph 40 and on that basis denies such allegations.

10 41. OpenTable is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in Paragraph 41 and on that basis denies such allegations.

12 42. OpenTable is without knowledge or information sufficient to form a belief as to
13 the truth of the allegations contained in Paragraph 42 and on that basis denies such allegations.

14 43. OpenTable is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations contained in Paragraph 43 and on that basis denies such allegations.

16 44. OpenTable is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations contained in Paragraph 44 and on that basis denies such allegations.

18 45. OpenTable is without knowledge or information sufficient to form a belief as to
19 the truth of the allegations contained in Paragraph 45 and on that basis denies such allegations.

20 46. OpenTable is without knowledge or information sufficient to form a belief as to
21 the truth of the allegations contained in Paragraph 46 and on that basis denies such allegations.

22 47. OpenTable is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations contained in Paragraph 47 and on that basis denies such allegations.

24 48. OpenTable is without knowledge or information sufficient to form a belief as to
25 the truth of the allegations contained in Paragraph 48 and on that basis denies such allegations.

26 49. OpenTable is without knowledge or information sufficient to form a belief as to
27 the truth of the allegations contained in Paragraph 49 and on that basis denies such allegations.

28 50. OpenTable is without knowledge or information sufficient to form a belief as to

1 the truth of the allegations contained in Paragraph 50 and on that basis denies such allegations.

2 51. OpenTable is without knowledge or information sufficient to form a belief as to
3 the truth of the allegations contained in Paragraph 51 and on that basis denies such allegations.

4 52. OpenTable is without knowledge or information sufficient to form a belief as to
5 the truth of the allegations contained in Paragraph 52 and on that basis denies such allegations.

6 53. OpenTable is without knowledge or information sufficient to form a belief as to
7 the truth of the allegations contained in Paragraph 53 and on that basis denies such allegations.

8 54. OpenTable is without knowledge or information sufficient to form a belief as to
9 the truth of the allegations contained in Paragraph 54 and on that basis denies such allegations.

10 55. OpenTable is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in Paragraph 55 and on that basis denies such allegations.

12 56. OpenTable is without knowledge or information sufficient to form a belief as to
13 the truth of the allegations contained in Paragraph 56 and on that basis denies such allegations.

14 57. OpenTable denies the allegations of Paragraph 57.

15 58. OpenTable denies the allegations of Paragraph 58.

16 59. OpenTable denies the allegations of Paragraph 59.

17 60. OpenTable denies the allegations of Paragraph 60.

18 61. OpenTable denies the allegations of Paragraph 61.

19 62. OpenTable admits that it had knowledge of U.S. Patent No. 6,384,850 (the “ ’850
20 Patent”) by no later than the date it was first served with the complaint in this action. Except as
21 expressly admitted, OpenTable denies the allegations of Paragraph 62.

22 63. OpenTable denies the allegations of Paragraph 63.

23 64. OpenTable admits that it provides instruction and direction regarding the use of
24 its products and services and that it advertises and promotes the use of its products and services.
25 Except as expressly admitted, OpenTable denies the allegations of Paragraph 64.

26 65. OpenTable admits that it had knowledge of the ’850 Patent by no later than the
27 date it was first served with the complaint in this action. Except as expressly admitted,
28 OpenTable denies the allegations of Paragraph 65.

1 66. OpenTable denies the allegations of Paragraph 66.

2 67. OpenTable denies the allegations of Paragraph 67.

3 68. OpenTable is without knowledge or information sufficient to form a belief as to
4 the truth of the allegations contained in Paragraph 68 and on that basis denies such allegations.

5 69. OpenTable is without knowledge or information sufficient to form a belief as to
6 the truth of the allegations contained in Paragraph 69 and on that basis denies such allegations.

7 70. OpenTable is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations contained in Paragraph 70 and on that basis denies such allegations.

9 71. OpenTable is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations contained in Paragraph 71 and on that basis denies such allegations.

11 72. OpenTable is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations contained in Paragraph 72 and on that basis denies such allegations.

13 73. OpenTable is without knowledge or information sufficient to form a belief as to
14 the truth of the allegations contained in Paragraph 73 and on that basis denies such allegations.

15 74. OpenTable is without knowledge or information sufficient to form a belief as to
16 the truth of the allegations contained in Paragraph 74 and on that basis denies such allegations.

17 75. OpenTable is without knowledge or information sufficient to form a belief as to
18 the truth of the allegations contained in Paragraph 75 and on that basis denies such allegations.

19 76. OpenTable is without knowledge or information sufficient to form a belief as to
20 the truth of the allegations contained in Paragraph 76 and on that basis denies such allegations.

21 77. OpenTable is without knowledge or information sufficient to form a belief as to
22 the truth of the allegations contained in Paragraph 77 and on that basis denies such allegations.

23 78. OpenTable is without knowledge or information sufficient to form a belief as to
24 the truth of the allegations contained in Paragraph 78 and on that basis denies such allegations.

25 79. OpenTable is without knowledge or information sufficient to form a belief as to
26 the truth of the allegations contained in Paragraph 79 and on that basis denies such allegations.

27 80. OpenTable is without knowledge or information sufficient to form a belief as to
28 the truth of the allegations contained in Paragraph 80 and on that basis denies such allegations.

1 81. OpenTable is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations contained in Paragraph 81 and on that basis denies such allegations.

3 82. OpenTable is without knowledge or information sufficient to form a belief as to
4 the truth of the allegations contained in Paragraph 82 and on that basis denies such allegations.

5 83. OpenTable is without knowledge or information sufficient to form a belief as to
6 the truth of the allegations contained in Paragraph 83 and on that basis denies such allegations.

7 84. OpenTable is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations contained in Paragraph 84 and on that basis denies such allegations.

9 85. OpenTable is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations contained in Paragraph 85 and on that basis denies such allegations.

11 86. OpenTable is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations contained in Paragraph 86 and on that basis denies such allegations.

13 87. OpenTable is without knowledge or information sufficient to form a belief as to
14 the truth of the allegations contained in Paragraph 87 and on that basis denies such allegations.

15 88. OpenTable is without knowledge or information sufficient to form a belief as to
16 the truth of the allegations contained in Paragraph 88 and on that basis denies such allegations.

17 89. OpenTable is without knowledge or information sufficient to form a belief as to
18 the truth of the allegations contained in Paragraph 89 and on that basis denies such allegations.

19 90. OpenTable is without knowledge or information sufficient to form a belief as to
20 the truth of the allegations contained in Paragraph 90 and on that basis denies such allegations.

21 91. OpenTable is without knowledge or information sufficient to form a belief as to
22 the truth of the allegations contained in Paragraph 91 and on that basis denies such allegations.

23 92. OpenTable is without knowledge or information sufficient to form a belief as to
24 the truth of the allegations contained in Paragraph 92 and on that basis denies such allegations.

25 93. OpenTable is without knowledge or information sufficient to form a belief as to
26 the truth of the allegations contained in Paragraph 93 and on that basis denies such allegations.

27 94. OpenTable is without knowledge or information sufficient to form a belief as to
28 the truth of the allegations contained in Paragraph 94 and on that basis denies such allegations.

1 95. OpenTable is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations contained in Paragraph 95 and on that basis denies such allegations.

3 96. OpenTable is without knowledge or information sufficient to form a belief as to
4 the truth of the allegations contained in Paragraph 96 and on that basis denies such allegations.

5 97. OpenTable is without knowledge or information sufficient to form a belief as to
6 the truth of the allegations contained in Paragraph 97 and on that basis denies such allegations.

7 98. OpenTable is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations contained in Paragraph 98 and on that basis denies such allegations.

9 99. OpenTable is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations contained in Paragraph 99 and on that basis denies such allegations.

11 100. OpenTable is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations contained in Paragraph 100 and on that basis denies such allegations.

13 101. OpenTable is without knowledge or information sufficient to form a belief as to
14 the truth of the allegations contained in Paragraph 101 and on that basis denies such allegations.

15 102. OpenTable is without knowledge or information sufficient to form a belief as to
16 the truth of the allegations contained in Paragraph 102 and on that basis denies such allegations.

17 103. OpenTable is without knowledge or information sufficient to form a belief as to
18 the truth of the allegations contained in Paragraph 103 and on that basis denies such allegations.

19 104. OpenTable is without knowledge or information sufficient to form a belief as to
20 the truth of the allegations contained in Paragraph 104 and on that basis denies such allegations.

21 105. OpenTable is without knowledge or information sufficient to form a belief as to
22 the truth of the allegations contained in Paragraph 105 and on that basis denies such allegations.

23 106. OpenTable is without knowledge or information sufficient to form a belief as to
24 the truth of the allegations contained in Paragraph 106 and on that basis denies such allegations.

25 107. OpenTable is without knowledge or information sufficient to form a belief as to
26 the truth of the allegations contained in Paragraph 107 and on that basis denies such allegations.

27 108. OpenTable is without knowledge or information sufficient to form a belief as to
28 the truth of the allegations contained in Paragraph 108 and on that basis denies such allegations.

1 109. OpenTable is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations contained in Paragraph 109 and on that basis denies such allegations.

3 110. OpenTable is without knowledge or information sufficient to form a belief as to
4 the truth of the allegations contained in Paragraph 110 and on that basis denies such allegations.

5 111. OpenTable is without knowledge or information sufficient to form a belief as to
6 the truth of the allegations contained in Paragraph 111 and on that basis denies such allegations.

7 112. OpenTable is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations contained in Paragraph 112 and on that basis denies such allegations.

9 113. OpenTable is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations contained in Paragraph 113 and on that basis denies such allegations.

11 114. OpenTable is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations contained in Paragraph 114 and on that basis denies such allegations.

13 115. OpenTable is without knowledge or information sufficient to form a belief as to
14 the truth of the allegations contained in Paragraph 115 and on that basis denies such allegations.

15 116. OpenTable is without knowledge or information sufficient to form a belief as to
16 the truth of the allegations contained in Paragraph 116 and on that basis denies such allegations.

17 117. OpenTable is without knowledge or information sufficient to form a belief as to
18 the truth of the allegations contained in Paragraph 117 and on that basis denies such allegations.

19 118. OpenTable is without knowledge or information sufficient to form a belief as to
20 the truth of the allegations contained in Paragraph 118 and on that basis denies such allegations.

21 119. OpenTable is without knowledge or information sufficient to form a belief as to
22 the truth of the allegations contained in Paragraph 119 and on that basis denies such allegations.

23 120. OpenTable is without knowledge or information sufficient to form a belief as to
24 the truth of the allegations contained in Paragraph 120 and on that basis denies such allegations.

25 121. OpenTable is without knowledge or information sufficient to form a belief as to
26 the truth of the allegations contained in Paragraph 121 and on that basis denies such allegations.

27 122. OpenTable is without knowledge or information sufficient to form a belief as to
28 the truth of the allegations contained in Paragraph 122 and on that basis denies such allegations.

136. OpenTable is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 136 and on that basis denies such allegations.

1 137. OpenTable is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations contained in Paragraph 137 and on that basis denies such allegations.

3 138. OpenTable is without knowledge or information sufficient to form a belief as to
4 the truth of the allegations contained in Paragraph 138 and on that basis denies such allegations.

5 139. OpenTable is without knowledge or information sufficient to form a belief as to
6 the truth of the allegations contained in Paragraph 139 and on that basis denies such allegations.

7 140. OpenTable is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations contained in Paragraph 140 and on that basis denies such allegations.

9 141. OpenTable is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations contained in Paragraph 141 and on that basis denies such allegations.

11 142. OpenTable is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations contained in Paragraph 142 and on that basis denies such allegations.

13 143. OpenTable is without knowledge or information sufficient to form a belief as to
14 the truth of the allegations contained in Paragraph 143 and on that basis denies such allegations.

15 144. OpenTable is without knowledge or information sufficient to form a belief as to
16 the truth of the allegations contained in Paragraph 144 and on that basis denies such allegations.

17 145. OpenTable is without knowledge or information sufficient to form a belief as to
18 the truth of the allegations contained in Paragraph 145 and on that basis denies such allegations.

19 146. OpenTable is without knowledge or information sufficient to form a belief as to
20 the truth of the allegations contained in Paragraph 146 and on that basis denies such allegations.

21 147. OpenTable is without knowledge or information sufficient to form a belief as to
22 the truth of the allegations contained in Paragraph 147 and on that basis denies such allegations.

23 148. OpenTable is without knowledge or information sufficient to form a belief as to
24 the truth of the allegations contained in Paragraph 148 and on that basis denies such allegations.

25 149. OpenTable is without knowledge or information sufficient to form a belief as to
26 the truth of the allegations contained in Paragraph 149 and on that basis denies such allegations.

27 150. OpenTable is without knowledge or information sufficient to form a belief as to
28 the truth of the allegations contained in Paragraph 150 and on that basis denies such allegations.

1 151. OpenTable is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations contained in Paragraph 151 and on that basis denies such allegations.

3 152. OpenTable is without knowledge or information sufficient to form a belief as to
4 the truth of the allegations contained in Paragraph 152 and on that basis denies such allegations.

5 153. OpenTable is without knowledge or information sufficient to form a belief as to
6 the truth of the allegations contained in Paragraph 153 and on that basis denies such allegations.

7 154. OpenTable is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations contained in Paragraph 154 and on that basis denies such allegations.

9 155. OpenTable is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations contained in Paragraph 155 and on that basis denies such allegations.

11 156. OpenTable is without knowledge or information sufficient to form a belief as to
12 the truth of the allegations contained in Paragraph 156 and on that basis denies such allegations.

13 157. OpenTable is without knowledge or information sufficient to form a belief as to
14 the truth of the allegations contained in Paragraph 157 and on that basis denies such allegations.

15 158. OpenTable is without knowledge or information sufficient to form a belief as to
16 the truth of the allegations contained in Paragraph 158 and on that basis denies such allegations.

17 159. OpenTable is without knowledge or information sufficient to form a belief as to
18 the truth of the allegations contained in Paragraph 159 and on that basis denies such allegations.

19 160. OpenTable is without knowledge or information sufficient to form a belief as to
20 the truth of the allegations contained in Paragraph 160 and on that basis denies such allegations.

21 161. OpenTable is without knowledge or information sufficient to form a belief as to
22 the truth of the allegations contained in Paragraph 161 and on that basis denies such allegations.

23 162. OpenTable is without knowledge or information sufficient to form a belief as to
24 the truth of the allegations contained in Paragraph 162 and on that basis denies such allegations.

25 163. OpenTable is without knowledge or information sufficient to form a belief as to
26 the truth of the allegations contained in Paragraph 163 and on that basis denies such allegations.

27 164. OpenTable is without knowledge or information sufficient to form a belief as to
28 the truth of the allegations contained in Paragraph 164 and on that basis denies such allegations.

1 165. OpenTable is without knowledge or information sufficient to form a belief as to
2 the truth of the allegations contained in Paragraph 165 and on that basis denies such allegations.

3 166. OpenTable is without knowledge or information sufficient to form a belief as to
4 the truth of the allegations contained in Paragraph 166 and on that basis denies such allegations.

5 167. OpenTable is without knowledge or information sufficient to form a belief as to
6 the truth of the allegations contained in Paragraph 167 and on that basis denies such allegations.

7 168. OpenTable is without knowledge or information sufficient to form a belief as to
8 the truth of the allegations contained in Paragraph 168 and on that basis denies such allegations.

9 169. OpenTable is without knowledge or information sufficient to form a belief as to
10 the truth of the allegations contained in Paragraph 169 and on that basis denies such allegations.

11 170. OpenTable denies the allegations of Paragraph 170.

12 171. OpenTable denies the allegations of Paragraph 171.

13 172. OpenTable denies the allegations of Paragraph 172.

14 173. OpenTable denies the allegations of Paragraph 173.

15 174. OpenTable denies the allegations of Paragraph 174.

16 175. OpenTable admits that it had knowledge of U.S. Patent No. 6,871,325 (the “ ’325
17 Patent”) by no later than the date it was first served with the complaint in this action. Except as
18 expressly admitted, OpenTable denies the allegations of Paragraph 175.

19 176. OpenTable denies the allegations of Paragraph 176.

20 177. OpenTable admits that it provides instruction and direction regarding the use of
21 its products and services and that it advertises and promotes the use of its products and services.
22 Except as expressly admitted, OpenTable denies the allegations of Paragraph 177.

23 178. OpenTable admits that it had knowledge of the ’325 Patent by no later than the
24 date it was first served with the complaint in this action. Except as expressly admitted,
25 OpenTable denies the allegations of Paragraph 178.

26 179. OpenTable denies the allegations of Paragraph 179.

27 180. OpenTable denies the allegations of Paragraph 180.

28 181. OpenTable is without knowledge or information sufficient to form a belief as to

1 the truth of the allegations contained in Paragraph 181 and on that basis denies such allegations.

2 182. OpenTable is without knowledge or information sufficient to form a belief as to
3 the truth of the allegations contained in Paragraph 182 and on that basis denies such allegations.

4 183. OpenTable is without knowledge or information sufficient to form a belief as to
5 the truth of the allegations contained in Paragraph 183 and on that basis denies such allegations.

6 184. OpenTable is without knowledge or information sufficient to form a belief as to
7 the truth of the allegations contained in Paragraph 184 and on that basis denies such allegations.

8 185. OpenTable is without knowledge or information sufficient to form a belief as to
9 the truth of the allegations contained in Paragraph 185 and on that basis denies such allegations.

10 186. OpenTable is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in Paragraph 186 and on that basis denies such allegations.

12 187. OpenTable is without knowledge or information sufficient to form a belief as to
13 the truth of the allegations contained in Paragraph 187 and on that basis denies such allegations.

14 188. OpenTable is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations contained in Paragraph 188 and on that basis denies such allegations.

16 189. OpenTable is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations contained in Paragraph 189 and on that basis denies such allegations.

18 190. OpenTable is without knowledge or information sufficient to form a belief as to
19 the truth of the allegations contained in Paragraph 190 and on that basis denies such allegations.

20 191. OpenTable is without knowledge or information sufficient to form a belief as to
21 the truth of the allegations contained in Paragraph 191 and on that basis denies such allegations.

22 192. OpenTable is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations contained in Paragraph 192 and on that basis denies such allegations.

24 193. OpenTable is without knowledge or information sufficient to form a belief as to
25 the truth of the allegations contained in Paragraph 193 and on that basis denies such allegations.

26 194. OpenTable is without knowledge or information sufficient to form a belief as to
27 the truth of the allegations contained in Paragraph 194 and on that basis denies such allegations.

28 195. OpenTable is without knowledge or information sufficient to form a belief as to

1 the truth of the allegations contained in Paragraph 195 and on that basis denies such allegations.

2 196. OpenTable is without knowledge or information sufficient to form a belief as to
3 the truth of the allegations contained in Paragraph 196 and on that basis denies such allegations.

4 197. OpenTable is without knowledge or information sufficient to form a belief as to
5 the truth of the allegations contained in Paragraph 197 and on that basis denies such allegations.

6 198. OpenTable is without knowledge or information sufficient to form a belief as to
7 the truth of the allegations contained in Paragraph 198 and on that basis denies such allegations.

8 199. OpenTable is without knowledge or information sufficient to form a belief as to
9 the truth of the allegations contained in Paragraph 199 and on that basis denies such allegations.

10 200. OpenTable is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in Paragraph 200 and on that basis denies such allegations.

12 201. OpenTable is without knowledge or information sufficient to form a belief as to
13 the truth of the allegations contained in Paragraph 201 and on that basis denies such allegations.

14 202. OpenTable is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations contained in Paragraph 202 and on that basis denies such allegations.

16 203. OpenTable is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations contained in Paragraph 203 and on that basis denies such allegations.

18 204. OpenTable is without knowledge or information sufficient to form a belief as to
19 the truth of the allegations contained in Paragraph 204 and on that basis denies such allegations.

20 205. OpenTable is without knowledge or information sufficient to form a belief as to
21 the truth of the allegations contained in Paragraph 205 and on that basis denies such allegations.

22 206. OpenTable is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations contained in Paragraph 206 and on that basis denies such allegations.

24 207. OpenTable is without knowledge or information sufficient to form a belief as to
25 the truth of the allegations contained in Paragraph 207 and on that basis denies such allegations.

26 208. OpenTable is without knowledge or information sufficient to form a belief as to
27 the truth of the allegations contained in Paragraph 208 and on that basis denies such allegations.

28 209. OpenTable is without knowledge or information sufficient to form a belief as to

1 the truth of the allegations contained in Paragraph 209 and on that basis denies such allegations.

2 210. OpenTable is without knowledge or information sufficient to form a belief as to
3 the truth of the allegations contained in Paragraph 210 and on that basis denies such allegations.

4 211. OpenTable is without knowledge or information sufficient to form a belief as to
5 the truth of the allegations contained in Paragraph 211 and on that basis denies such allegations.

6 212. OpenTable is without knowledge or information sufficient to form a belief as to
7 the truth of the allegations contained in Paragraph 212 and on that basis denies such allegations.

8 213. OpenTable is without knowledge or information sufficient to form a belief as to
9 the truth of the allegations contained in Paragraph 213 and on that basis denies such allegations.

10 214. OpenTable is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in Paragraph 214 and on that basis denies such allegations.

12 215. OpenTable is without knowledge or information sufficient to form a belief as to
13 the truth of the allegations contained in Paragraph 215 and on that basis denies such allegations.

14 216. OpenTable is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations contained in Paragraph 216 and on that basis denies such allegations.

16 217. OpenTable is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations contained in Paragraph 217 and on that basis denies such allegations.

18 218. OpenTable is without knowledge or information sufficient to form a belief as to
19 the truth of the allegations contained in Paragraph 218 and on that basis denies such allegations.

20 219. OpenTable is without knowledge or information sufficient to form a belief as to
21 the truth of the allegations contained in Paragraph 219 and on that basis denies such allegations.

22 220. OpenTable is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations contained in Paragraph 220 and on that basis denies such allegations.

24 221. OpenTable is without knowledge or information sufficient to form a belief as to
25 the truth of the allegations contained in Paragraph 221 and on that basis denies such allegations.

26 222. OpenTable is without knowledge or information sufficient to form a belief as to
27 the truth of the allegations contained in Paragraph 222 and on that basis denies such allegations.

28 223. OpenTable is without knowledge or information sufficient to form a belief as to

1 the truth of the allegations contained in Paragraph 223 and on that basis denies such allegations.

2 224. OpenTable is without knowledge or information sufficient to form a belief as to
3 the truth of the allegations contained in Paragraph 224 and on that basis denies such allegations.

4 225. OpenTable is without knowledge or information sufficient to form a belief as to
5 the truth of the allegations contained in Paragraph 225 and on that basis denies such allegations.

6 226. OpenTable is without knowledge or information sufficient to form a belief as to
7 the truth of the allegations contained in Paragraph 226 and on that basis denies such allegations.

8 227. OpenTable is without knowledge or information sufficient to form a belief as to
9 the truth of the allegations contained in Paragraph 227 and on that basis denies such allegations.

10 228. OpenTable is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in Paragraph 228 and on that basis denies such allegations.

12 229. OpenTable is without knowledge or information sufficient to form a belief as to
13 the truth of the allegations contained in Paragraph 229 and on that basis denies such allegations.

14 230. OpenTable is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations contained in Paragraph 230 and on that basis denies such allegations.

16 231. OpenTable is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations contained in Paragraph 231 and on that basis denies such allegations.

18 232. OpenTable is without knowledge or information sufficient to form a belief as to
19 the truth of the allegations contained in Paragraph 232 and on that basis denies such allegations.

20 233. OpenTable is without knowledge or information sufficient to form a belief as to
21 the truth of the allegations contained in Paragraph 233 and on that basis denies such allegations.

22 234. OpenTable is without knowledge or information sufficient to form a belief as to
23 the truth of the allegations contained in Paragraph 234 and on that basis denies such allegations.

24 235. OpenTable is without knowledge or information sufficient to form a belief as to
25 the truth of the allegations contained in Paragraph 235 and on that basis denies such allegations.

26 236. OpenTable is without knowledge or information sufficient to form a belief as to
27 the truth of the allegations contained in Paragraph 236 and on that basis denies such allegations.

28 237. OpenTable is without knowledge or information sufficient to form a belief as to

1 the truth of the allegations contained in Paragraph 237 and on that basis denies such allegations.

2 238. OpenTable is without knowledge or information sufficient to form a belief as to
3 the truth of the allegations contained in Paragraph 238 and on that basis denies such allegations.

4 239. OpenTable is without knowledge or information sufficient to form a belief as to
5 the truth of the allegations contained in Paragraph 239 and on that basis denies such allegations.

6 240. OpenTable is without knowledge or information sufficient to form a belief as to
7 the truth of the allegations contained in Paragraph 240 and on that basis denies such allegations.

8 241. OpenTable is without knowledge or information sufficient to form a belief as to
9 the truth of the allegations contained in Paragraph 241 and on that basis denies such allegations.

10 242. OpenTable is without knowledge or information sufficient to form a belief as to
11 the truth of the allegations contained in Paragraph 242 and on that basis denies such allegations.

12 243. OpenTable is without knowledge or information sufficient to form a belief as to
13 the truth of the allegations contained in Paragraph 243 and on that basis denies such allegations.

14 244. OpenTable is without knowledge or information sufficient to form a belief as to
15 the truth of the allegations contained in Paragraph 244 and on that basis denies such allegations.

16 245. OpenTable is without knowledge or information sufficient to form a belief as to
17 the truth of the allegations contained in Paragraph 245 and on that basis denies such allegations.

18 246. OpenTable is without knowledge or information sufficient to form a belief as to
19 the truth of the allegations contained in Paragraph 246 and on that basis denies such allegations.

20 **PRAYER FOR RELIEF**

21 247. OpenTable denies that Ameranth is entitled to any of the relief it seeks with
22 respect to OpenTable, including any of the relief sought in Paragraphs 1-9 of its Prayer for
23 Relief. To the extent the Prayer for Relief is directed to other parties, OpenTable is without
24 sufficient knowledge or information to form a belief as to the allegations set forth therein and on
25 that basis denies such allegations.

26 **DEFENSES**

27 248. OpenTable asserts the following as separate, distinct, and non-exclusive defenses.
28 By asserting these defenses, OpenTable does not thereby assume the burden of proof.

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First Defense

(Failure to State a Claim upon Which Relief Can Be Granted)

249. The Second Amended Complaint for Patent Infringement fails to state a claim upon which relief can be granted.

Second Defense

(Non-Infringement of the '850 Patent)

250. OpenTable has not infringed and does not infringe any of the claims of the asserted '850 Patent, either directly, contributorily, or by inducement, and Ameranth will be unable to establish the infringement of any of the claims of the '850 Patent.

Third Defense

(Invalidity of the '850 Patent)

251. The asserted '850 Patent is invalid and unenforceable for failure to satisfy the requirements for patentability under Title 35 of the United States Code, including in particular sections 101, 102, 103, and/or 112.

Fourth Defense

(Non-Infringement of the '325 Patent)

252. OpenTable has not infringed and does not infringe any of the claims of the asserted '325 Patent, either directly, contributorily, or by inducement, and Ameranth will be unable to establish the infringement of any of the claims of the '325 Patent.

Fifth Defense

(Invalidity of the '325 Patent)

253. The asserted '325 Patent is invalid and unenforceable for failure to satisfy the requirements for patentability under Title 35 of the United States Code, including in particular sections 101, 102, 103, and/or 112.

Sixth Defense

(No Willful Infringement)

254. OpenTable has not willfully infringed any claim of the '850 Patent or the '325 Patent.

Seventh Defense

(Limitation of Damages and Costs)

255. Ameranth's claims for damages and costs are barred, in whole or in part, under 35 U.S.C. §§ 286, 287, and/or 288.

Eighth Defense

(Equitable Defenses)

256. On information and belief, Ameranth's claims against OpenTable are barred, in whole or in part, under the doctrines of laches, estoppel, waiver, and/or unclean hands.

Ninth Defense

(Misjoinder)

257. On information and belief, some or all of the defendants have been improperly joined in a single action, and OpenTable asserts its right to a separate trial.

Reservation of Additional Defenses

258. OpenTable has not knowingly and intentionally waived any applicable affirmative or other defenses and reserves the right to raise additional affirmative or other defenses as they become known through discovery or further investigation. OpenTable further reserves the right to amend and supplement its answer and defenses as further information becomes available.

COUNTERCLAIMS

Counterclaimant OpenTable hereby alleges the following counterclaims against counterclaim defendant Ameranth as follows:

The Parties

1. OpenTable is a Delaware corporation having its principal executive offices in San Francisco, California.

2. On information and belief, Ameranth is a Delaware corporation having its principal place of business in San Diego, California.

Jurisdiction and Venue

3. These counterclaims arise under the patent laws of the United States, Title 35 of the United States Code, and the Federal Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202.

1 This Court has subject matter jurisdiction over these Counterclaims pursuant to 28 U.S.C.
2 §§ 1331, 1338(a), 2201, and 2202.

3 4. This Court has personal jurisdiction over Ameranth because it has purposefully
4 availed itself of the benefits and protections of this jurisdiction, including by filing the instant
5 action.

6 5. Venue for these counterclaims is proper in this Court pursuant to 28 U.S.C.
7 § 1391.

8 **Nature of the Action**

9 6. This is an action for a declaratory judgment pursuant to the Federal Declaratory
10 Judgment Act, 28 U.S.C. §§ 2201 and 2202, for the purpose of determining a question of actual
11 controversy between the parties. As described below, OpenTable asserts counterclaims seeking
12 a declaratory judgment that the claims of the '850 Patent and '325 Patent are each invalid and
13 unenforceable and that they are not infringed by OpenTable. An actual controversy over the
14 infringement, validity, and enforceability of the patents at issue exists between OpenTable and
15 Ameranth, as evidenced by the allegations of the Second Amended Complaint for Patent
16 Infringement and OpenTable's responses thereto.

17 **Counterclaim for Relief – Count I**

18 **(Declaratory Judgment of Invalidity of the '850 Patent)**

19 7. OpenTable incorporates by reference each of the allegations of Paragraphs 1-6 of
20 the counterclaims above as if fully set forth herein.

21 8. In the Second Amended Complaint for Patent Infringement, Ameranth alleges
22 that it is the lawful owner by assignment of all right, title, and interest in and to the '850 Patent.

23 9. On or about August 15, 2011, Ameranth filed a complaint against OpenTable
24 alleging infringement of the '850 Patent. OpenTable herein denies the allegations of
25 infringement and asserts at least the defenses alleged above. Accordingly, an actual justiciable
26 controversy exists between OpenTable and Ameranth as to whether the claims of the '850 Patent
27 are invalid, unenforceable, and/or not infringed by OpenTable.

28 10. Each claim of the '850 Patent is invalid and unenforceable for failure to comply

1 with one or more of the requirements of Title 35 U.S.C., including without limitation sections
 2 101, 102, 103, and/or 112, for at least the reasons specified in Defendants' Preliminary Invalidity
 3 Contentions served on Ameranth on June 18, 2012.

4 11. Pursuant to the Federal Declaratory Judgment Act, OpenTable requests a judicial
 5 declaration of the Court that the '850 Patent is invalid and unenforceable.

6 **Counterclaim for Relief – Count II**

7 **(Declaratory Judgment of Invalidity of the '325 Patent)**

8 12. OpenTable incorporates by reference each of the allegations of Paragraphs 1-11
 9 of the counterclaims above as if fully set forth herein.

10 13. In the Second Amended Complaint for Patent Infringement, Ameranth alleges
 11 that it is the lawful owner by assignment of all right, title, and interest in and to the '325 Patent.

12 14. On or about August 15, 2011, Ameranth filed a complaint against OpenTable
 13 alleging infringement of the '325 Patent. OpenTable herein denies the allegations of
 14 infringement and asserts at least the defenses alleged above. Accordingly, an actual justiciable
 15 controversy exists between OpenTable and Ameranth as to whether the claims of the '325 Patent
 16 are invalid, unenforceable, and/or not infringed by OpenTable.

17 15. Each claim of the '325 Patent is invalid and unenforceable for failure to comply
 18 with one or more of the requirements of Title 35 U.S.C., including without limitation sections
 19 101, 102, 103, and/or 112, for at least the reasons specified in Defendants' Preliminary Invalidity
 20 Contentions served on Ameranth on June 18, 2012.

21 16. Pursuant to the Federal Declaratory Judgment Act, OpenTable requests a judicial
 22 declaration of the Court that the '325 Patent is invalid and unenforceable.

23 **RELIEF REQUESTED**

24 OpenTable requests judgment as follows:

- 25 1. A declaration that the claims of the '850 Patent are invalid and unenforceable;
- 26 2. A declaration that the claims of the '325 Patent are invalid and unenforceable;
- 27 3. The entry of a judgment against Ameranth and in favor of OpenTable on all the
- 28 claims asserted by Ameranth in the present action;

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, OpenTable demands a jury trial on all issues raised by Ameranth's complaint, OpenTable's answer, and OpenTable's counterclaims for which that right exists.

Respectfully submitted,

By: /s/ James L. Day

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OPENTABLE, INC.'S FIRST AMENDED
ANSWER AND COUNTERCLAIMS
Case No. 3:11-cv-1810-JLS (NLS)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 17th day of July, 2012, the foregoing document was electronically filed with the Clerk of the Court using the CM/ECF system per Local Rule CV-5(a), which will issue an electronic notification of filing to all counsel of record.

/s/ James L. Day
James L. Day